IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIFTY DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 19895 of 2003

Between:

M/s East India Fisheries Pvt. Ltd., rep. by its Managing Director, P.S. Rai S/o Muthanna Rai, Pamarru, Krishna District

..... PETITIONER

AND

1 The Union of India, rep. by its Secretary,
Finance & Planning Department, New Delhi
2 Vijaya Bank, rep. by its Senior Branch Manager,
Apuroopa Arcade , Maharanipet, Visakhapanam

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order more particularly one in nature of Writ of Mandamus declaring the impugned Notice Ref.ADV.RK.163: 2002-2003 dt. 5-9-2002 issued by the 2nd respondent Bank under provisions of Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcements of Security Interest Act, as illegal, arbitrary violative of principles of natural justice and also violative of the basic principle of Rule of Law and fundamental rights guaranteed under Constitution of India and consequently set aside the impugned notice dt. 5-9-2002 as the said provisions of Sec. 13 of the Act as ultra vires and unconstitutional.

For the Petitioner: MR.CH.DHANAMJAYA, advocate.

For the Respondent No.1: Mr.A.Rajasekhara Reddy, S.C. for Central Government

For the Respondent No.2: None appeared.

The Court made the following :

ORAL ORDER : (per Hon'ble Sri Devinder Gupta, the Chief Justice)

In view of the decision of the Hon'ble Supreme Court in Transfer Case (civil) No.92-95 of 2002 dated 8th April, 2004 (MARDIA CHEMICALS LTD. Vs. UNION OF INDIA & ORS.), challenge to the provisions of the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not tenable and for that reason, relief prayed for in this Writ Petition can not be granted.

Writ Petition is, therefore, dismissed.

DEVINDER GUPTA, CJ

5th July, 2004

(G.ROHINI, J)

TVR/DRK

To:

1)The Secretary, Finance & Planning Dept., Union of India, New Delhi.

2)The Senior Branch Manager, Vijaya Bank, Apuroopa Arcade, Maharanipet, Visakhapatnam.

3)Two CD copies.

4)The Sr.Standing Counsel for Central Govt., High Court buildings, High Court of A.P., Hyderabad.